

RESOLUTION GRANTING THIRD ROUND SUBSTANTIVE CERTIFICATION # 67-18

Cresskill Borough, Bergen County

WHEREAS, on December 30, 2008, Cresskill Borough, Bergen County, petitioned the Council on Affordable Housing (COAH) for substantive certification of a Housing Element and Fair Share Plan addressing its total 1987-2018 affordable housing obligation; and

WHEREAS, Cresskill's petition was deemed complete on March 26, 2009; and

WHEREAS, pursuant to N.J.S.A. 52:27D-313 and N.J.A.C. 5:96-3.5, on April 2, 2009, the Borough published notice of its petition in the *Record*, which is a newspaper of general circulation within the county; and

WHEREAS, during the 45-day objection period, which ended June 15, 2009, no objections were received, but one comment to the plan was received by COAH from Kevin Walsh of the Fair Share Housing Center; and

WHEREAS, Fair Share Housing Center's comment is summarized and addressed in the COAH compliance report; and

WHEREAS, the Borough of Cresskill's fair share plan addresses a total 1987-2018 affordable housing obligation of 146 units, consisting of a 26-unit rehabilitation share, 70-unit prior round obligation and a 50-unit projected growth share obligation pursuant to N.J.A.C. 5:97; and

WHEREAS, the Borough of Cresskill proposes to address its 26-unit rehabilitation share with a municipal rehabilitation program for 26 units; and

WHEREAS, the Borough proposes to address its 70-unit prior round obligation with 18 rental credits and 18 rental bonuses for Daibes Park/ Hoke Site Inclusionary Redevelopment project, 26 credits for a Regional Contribution Agreement (RCA) with Bayonne and eight credits from an RCA with Weehawken; and

WHEREAS, Cresskill proposes to address its 50-unit projected growth share obligation with nine age-restricted rental credits from the Sunrise Assisted Living Residences, six family rental credits and six rental bonuses from the Cresskill Plaza Planned Unit Development (PUD), one family rental credit and one rental bonus from the Wolfer Mixed Use inclusionary development, two family rental credits and two rental bonuses from the North Jersey Community Bank inclusionary development, one family rental credit and one rental bonus from the Riverview Associates inclusionary development, a proposed six-unit accessory apartment program and 15 proposed family rental units from an innovative approach program; and

WHEREAS, COAH staff has reviewed the Borough's Housing Element and Fair Share Plan, and the additional information submitted in response to a COAH Report Requesting Obligation; and

WHEREAS, on August 23, 2010 COAH issued a Compliance Report (attached as Exhibit A and incorporated by reference herein) recommending approval of the Borough of Cresskill's petition for third round substantive certification; and

WHEREAS, there was a 14-day period to submit comments to the COAH Compliance Report pursuant to N.J.A.C. 5:96-6.2(b) and COAH received no comments during this timeframe.

NOW THEREFORE BE IT RESOLVED that the Housing Element and Fair Share Plan submitted by the Borough of Cresskill comports to the standards set forth at N.J.S.A. 52:27D-314 and meets the criteria for third round substantive certification pursuant to N.J.A.C. 5:96-6.3; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.2(a), after having reviewed and considered all of the above, COAH hereby grants third round substantive

certification to the Borough of Cresskill; and

BE IT FURTHER RESOLVED that after receiving final substantive certification, pursuant to N.J.A.C. 5:96-6.3(e), the Borough of Cresskill shall adopt all implementing Fair Share Ordinances within 45 days of this grant of substantive certification; and

BE IT FURTHER RESOLVED if the Borough of Cresskill fails to timely adopt its Fair Share Ordinances, COAH's grant of substantive certification shall be void and of no force and effect; and

BE IT FURTHER RESOLVED that Cresskill shall submit all Fair Share Ordinances, including the accessory apartment ordinance, affordable housing ordinance and spending plan amendment, to COAH upon adoption; and

BE IT FURTHER RESOLVED that, in addition, within 45 days of COAH's grant of substantive certification, Cresskill shall submit the following documents:

- An executed resolution of intent to bond in the event of a shortfall of funds; and
- An executed contract and adopted resolution designating an administrative entity for all affordable units; and
- The adopted COAH-approved affirmative marketing plan; and

BE IT FURTHER RESOLVED that Cresskill shall comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting Cresskill's actual growth pursuant to N.J.A.C. 5:97-2.5; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-10.1, COAH shall conduct biennial plan evaluations upon substantive certification of Cresskill's Housing Element and Fair Share Plan to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing; and

BE IT FURTHER RESOLVED that if upon any biennial review the difference between the number of affordable units constructed or provided in Cresskill and the number of units

required pursuant to N.J.A.C. 5:97-2.5 results in a prorated production shortage of 10 percent or greater, the Borough is not adhering to its implementation schedule pursuant to N.J.A.C. 5:97-3.2(a)4 or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, then the Council may direct the municipality to amend its plan to address the shortfall; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-2.5(e), if the actual growth share obligation determined is less than the projected growth share obligation, Cresskill shall continue to provide a realistic opportunity for affordable housing to address the projected growth share; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.3(b), Cresskill's substantive certification shall remain in effect until December 30, 2018; and

BE IT FURTHER RESOLVED that any changes to the facts upon which this substantive certification is based or any deviations from the terms and conditions of this substantive certification which affect the ability of the Borough of Cresskill to provide for the realistic opportunity of its fair share of low- and moderate-income housing and which the Borough fails to remedy, may render this certification null and void.

I hereby certify that this resolution was
duly adopted by the Council on Affordable
Housing at its public meeting on September 8, 2010.

A handwritten signature in cursive script, reading "Renée Reiss".

Renée Reiss, Secretary
Council on Affordable Housing



Council on Affordable Housing Compliance Report August 20, 2010



Municipality: Cresskill Borough
County: Bergen County

COAH Region: 1
Planning Area: 1
Special Resource Area: N/A

Housing Element and Fair Share Plan Adopted: October 21, 2008
Petition for 3rd Round Substantive Certification: December 30, 2008
Completeness Determination: March 26, 2009
Date of Publication: April 2, 2009

Objections Received: No
Comments Received: Yes, Kevin Walsh - Fair Share Housing Center

Petition Includes:
VLA: No
GPA: No
Waiver: No **Section:** N/A

Date of Site Visit: January 8, 2010

History of Approvals:

	COAH	JOC	N/A
First Round:			X
Second Round:	February 2, 2000		
Extended Certification:			X

Plan Preparer: Michael G. Hakim, LLA, RLA, PP, ASLA, President – Hakim Associates

Municipal Housing Liaison: Barbara Nasuto

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share	26
Prior Round Obligation	70
Projected Growth Share Obligation	50

ACTUAL GROWTH and GROWTH SHARE through September 30, 2008¹

Res Units (#)	Actual Res Growth Share	Jobs (#)	Actual Non-Res Growth Share	Actual TOTAL Growth Share
146	29.2 units	435	27.2 units	56 units

COMPLIANCE PLAN SUMMARY

Obligation	Credit/ Mechanism Type	No. Units Completed	No. Units Proposed	TOTAL
Rehabilitation: 26 units				
Credits	Post-April 1, 2000	0		0
Program(s)	Municipal		26	26
Rehabilitation Subtotal				26
NEW CONSTRUCTION:				
Prior Round: 70 units				
Credits	Prior Cycle	0		0
	Post-1986	18		18
	RCA	34		34
Prior Round Bonus(es)	Rental	18		18
Prior Round Subtotal				70

¹ This growth share number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.5; therefore, the actual growth share may vary.

Obligation	Credit/ Mechanism Type	No. Units Completed	No. Units Proposed	TOTAL
Growth Share: 50 units				
Credits	Prior Cycle	0		0
	Post-1986	19		19
Proposed Mechanism(s)	Accessory Apartment Program		6	6
	Innovative Approach		15	15
Growth Share Bonus(es)	Rental		10	10
Growth Share Subtotal				50

I. HOUSING ELEMENT

Pursuant to N.J.S.A. 40:55D-28(b), the Housing Element is a required section of the Municipal Master Plan. The Housing Element must be designed to achieve the goal of access to affordable housing to meet existing and future housing needs, with special attention given to low- and moderate-income households. The housing needs analysis must include demographic information on existing and projected housing stock and employment characteristics, a quantification of low- and moderate-income housing need, and a consideration of the lands within the municipality that are most appropriate to accommodate such housing. Cresskill's Housing Element includes sufficient information regarding housing stock, demographic and employment characteristics and population trends pursuant to N.J.S.A. 52:27D-310.

Under N.J.A.C. 5:97-2.1(b), the Housing Element must also set forth the municipality's affordable housing fair share obligation, which is the sum of the rehabilitation share, the prior round obligation and the growth share.

A. Rehabilitation Share

The rehabilitation share is the number of existing housing units within a municipality as of April 1, 2000, that are both deficient and occupied by households of low or moderate income. As indicated in Appendix B of N.J.A.C. 5:97, Cresskill has a rehabilitation share of 26 units.

B. Prior Round Obligation

The prior round obligation is the cumulative 1987-1999 new construction obligation provided in Appendix C of N.J.A.C. 5:97. Cresskill has a prior round obligation of 70.

C. Projected Growth Share

The projected growth share is initially calculated based on household (residential) and employment (non-residential) 2004-2018 projections. Pursuant to Appendix F of N.J.A.C. 5:97, Cresskill has a residential projection of 164 units and a non-residential projection of 274 jobs, which results in an initial projected growth share obligation of 50 affordable units². The Borough has not subtracted any second round exclusions.

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share	26
Prior Round Obligation	70
Projected Growth Share Obligation	50

II. FAIR SHARE PLAN

A Fair Share Plan, as required under N.J.A.C. 5:97-3.1, describes the completed or proposed mechanisms and funding sources, if applicable, that will be utilized to specifically address a municipality's rehabilitation share, prior round obligation, and growth share obligation and includes

² Pursuant to N.J.A.C. 5:97-2.2(d), Cresskill's residential growth projection of 164 is divided by 5 to yield 32.8 units and the non-residential growth projection of 274 jobs is divided by 16 to yield 17.1 units. Cresskill's total projected growth share is therefore 49.9 or 50 units (32.8 + 17.1).

the draft ordinances necessary to implement that plan. Affordable housing must be provided in direct proportion to the growth share obligation generated by the actual growth. COAH issued a Report Requesting Additional Information (RRAI) to Cresskill on November 24, 2009, whereby Cresskill was required to submit a plan to address a shortfall of ten units in addressing its growth share obligation, among other outstanding items in Cresskill's December 30, 2008 petition. Cresskill submitted responses to the RRAI dated December 21, 2009, January 12, 2010, January 20, 2010, June 29, 2010, July 15, 2010, and August 18, 2010, all of which served as addendums to the Borough's Fair Share Plan (incorporated herein as Appendix A). Per the addendums, Cresskill added a total of ten credits to its Fair Share Plan and increased the number of units in its accessory apartment program by three units. Other information and documentation were updated to reflect the compliance plan described in this report.

Cresskill's Fair Share Plan, including the responses to the November 24, 2009 RRAI noted above and the supporting documentation incorporated by reference therein, addresses the requirements of N.J.A.C. 5:97-3.1 as follows:

A. Plan to Address Rehabilitation Share

Rehabilitation Share Credits

Cresskill's Housing Element and Fair Share Plan does not include a request for rehabilitation credit.

Proposed Rehabilitation Program(s)

Cresskill Housing Rehabilitation Program

Cresskill will utilize its Housing Rehabilitation Program (CHRP) to address 26 units of its rehabilitation obligation. The Program has been in existence for many years and is administered by Steven J. Weinberg of Community Action Services. Assistance is provided to low- and moderate-income homeowners in making basic repairs to their homes. Covered repairs include roof and gutters, heating systems, electrical systems, structural problems, insulation, etc. Income eligible residents can borrow up to \$20,000 from the program at zero percent interest. The loan is repaid only when the house is sold or title transferred and the funds repaid are then used to help another Borough family. The Cresskill Housing Rehabilitation Program complies with the requirement for

the rehabilitation of at least one major system in an owner-occupied dwelling unit. The program is also available to renter-occupied households residing in owner-occupied multi-family dwelling units. The Rehabilitation Program is funded by the Borough's affordable housing trust fund. Cresskill has submitted a resolution of intent to appropriate funds or to bond in the event of any shortfall in funding. Cresskill has submitted a schedule for the rehabilitation of units through the third round certification period. **[26 rehabilitation units]**

Proposed Rehabilitation Program

Rehabilitation Program	26 Units
Cresskill Housing Rehabilitation Program	26
TOTAL	26

B. Plan to Address Prior Round Obligation

Prior Round Obligation Credits

Cresskill's second round substantive certification included a plan for addressing the prior round obligation with 18 post-1986 credits, 18 rental bonuses and 34 RCA credits. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

Post-1986 Credits

Project/Development Name	Year Built or Approved	Type of Affordable Unit	No. Units/Bedrooms	Bonus Type	No. Bonuses	Total Units/Bedrooms + Bonuses
Daibes Park/ Hoke Site Redevelopment Area	2002	Rental	18	Rental	18	36
Bayonne RCA	1999	RCA	26	N/A	0	26
Weehawken RCA	2000	RCA	8	N/A	0	8
TOTAL			52		18	70

Proposed Affordable Housing Mechanisms

Cresskill is relying on credits and therefore is not proposing any additional affordable housing mechanisms to address its prior round obligation.

Prior Round Obligation Parameters

Cresskill has satisfied the applicable Prior Round parameters as follows:

Prior Round Rental Obligation:³ 18 Units

Development/Project Name	Type of Affordable Unit	No. Units
Daibes Park/Hoke Site Redevelopment Area	Rental	18
TOTAL		18

Prior Round Age-Restricted Maximum⁴: 16 Units

Development/Project Name	Type of Affordable Unit	No. Units
N/A	N/A	0
TOTAL		0

Regional Contribution Agreement (RCA) Maximum⁵: 48 Units

Receiving Municipality(s)	Type of Affordable Unit	No. Units
Bayonne RCA	RCA	26
Weehawken RCA	RCA	8
TOTAL		34

³ Rental Obligation: Pursuant to N.J.A.C. 5:97-3.10(b)1, the Prior Round Rental Requirement = .25(Prior Round Obligation – Prior-Cycle Credits) or .25(70 – 0) or 18 units.

⁴ Age-Restricted Maximum: Pursuant to N.J.A.C. 5:97-3.10(c)1, the Prior Round Age-Restricted Maximum = .25(Prior Round Obligation + Rehabilitation Share – Prior-Cycle Credits – Rehabilitation Credits-Transferred RCA Units) or .25(70 + 26 - 0 - 0 - 34) = 15.5 units.

⁵ RCA Maximum: Pursuant to N.J.A.C. 5:97-3.10(d)1, the RCA Maximum = 50 percent (Prior Round Obligation + Rehabilitation Share – Prior Cycle Credits – Rehabilitation Credits – Impact of 20 percent cap – Impact of the 1,000-unit limitation) or .5(70+26-0-0) = 48.

Prior Round Rental Bonus Maximum⁶ : 18 Units

Development/Project Name	Type of Bonus	No. Bonuses
Daibes Park/Hoke Site Redevelopment Area	Rental	18
TOTAL		18

C. Plan to Address Projected Growth Share

Growth Share Obligation Credits

Cresskill is addressing 29 units of the projected growth share obligation with 19 units of credit and 10 rental bonuses. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11. The following developments have been approved, but not yet constructed:

Cresskill Plaza Inclusionary PUD

Cresskill proposes six family rental units and six rental bonuses from the Cresskill Plaza Inclusionary PUD to address 12 units of its projected growth share obligation. Located on the southwest corner of Madison Avenue and Piermont Road, the tract was approved by Cresskill's Planning Board on March 27, 2007 as a mixed use project with street-level storefronts, a drive-through bank and 28 apartments, including six affordable rental units. Sewer capacity is provided by the Bergen County Utilities Authority and water capacity is available through the United Water Company. The property is located within the Metropolitan Planning Area (PA-1) of the State Plan Policy Map of the State Development and Redevelopment Plan (SDRP) and is owned by 6 Madison Avenue Associates, LLC. The site is partially constrained due to flood hazard areas and C-1 and wetland buffers along the Tenakill Brook. The site contains a total of 83,376 square feet (1.9 acres) of which 67,200 (1.5 acres) are developable.

The affordable units must meet the requirements of the Uniform Housing Affordability Controls (N.J.A.C. 5:80-1 et seq.) with regard to controls on affordability, affirmative marketing,

⁶ No rental bonuses shall be granted for rental units in excess of the prior round rental obligation, therefore, PR Rental Bonus Maximum = PR Rental Obligation N.J.A.C. 5:97-3.5

pricing, low/moderate split and bedroom distribution. Prior to marketing the units, the Borough must submit the required documents pursuant to N.J.A.C. 5:97-6.4(k). The Borough has indicated that Steven J. Weinberg of Community Action Services will be designated as the administrative agent for this development. **[Six family rental units and six rental bonuses]**

Wolfer Mixed Use Inclusionary Development

Cresskill proposes one family rental unit and one rental bonus from the Wolfer Mixed Use inclusionary development to address two units of its projected growth share obligation. The tract was approved by Cresskill's Planning Board on August 12, 2008 as a mixed use project with retail on the first floor and four apartments, including one affordable rental unit on the second floor. The site is located in the Commercial zone (C) within the Borough and is in PA-1. Sewer capacity is provided by the Bergen County Utilities Authority and water capacity is available through the United Water Company. The property is located on Block 74, Lots 42-44 and is owned by 35 Union Avenue, LLC. The current building on the site was formerly used for warehousing, storage and light industrial purposes. The site contains a total of 0.2376 acres.

The affordable units must meet the requirements of the Uniform Housing Affordability Controls (N.J.A.C. 5:80-1 et seq.) with regard to controls on affordability, affirmative marketing, pricing, low/moderate split and bedroom distribution. Prior to marketing the affordable unit, the Borough must submit the documentation required pursuant to N.J.A.C. 5:97-6.4(k). The Borough has indicated that Steven J. Weinberg of Community Action Services will be designated as the administrative agent for this development. **[One family rental unit and one rental bonus]**

North Jersey Community Bank Mixed Use Inclusionary Development

Cresskill proposes two family rental units and two rental bonuses from the North Jersey Community Bank development to address four units of its projected growth share obligation. The Cresskill Planning Board granted final site plan approval of the development on January 13, 2009. The approved development will consist of a bank and other retail uses on the first floor and seven apartments, including two affordable units on the second floor. The site is located in the Commercial zone (C) within the Borough and is in PA-1. Sewer capacity is provided by the Bergen County Utilities Authority and water capacity is available through the United Water Company. The property is located on Block 74, Lots 47-47.03 and is owned by Cresskill 1 Union Ave LLC. The

lots are currently occupied by a bank and a bar and will be consolidated into a mixed-use building with retail on the first floor and apartments on the second floor. The tract contains a total of 34,285 square feet.

The affordable units must meet the requirements of the Uniform Housing Affordability Controls (N.J.A.C. 5:80-1 et seq.) with regard to controls on affordability, affirmative marketing, pricing, low/moderate split and bedroom distribution. Prior to marketing the affordable units, the Borough must submit the required items pursuant to N.J.A.C. 5:97-6.4(k). The Borough has indicated that Steven J. Weinberg of Community Action Services will be designated as the administrative agent for this development. **[Two family rental units and two rental bonuses]**

Riverview Associates Mixed Use Inclusionary Development

Cresskill proposes one family rental unit and one rental bonus from the Riverview Associates Mixed Use inclusionary development to address two units of its projected growth share obligation. The development was approved by Cresskill's Board of Adjustment on May 29, 2009 as a mixed use project with a mix of office and apartments, including one affordable rental unit on the first floor. The site is located in the Professional Office and Research Design and Development Laboratories (P&L) Zone within the Borough and is in PA-1. Sewer capacity is provided by the Bergen County Utilities Authority and water capacity is available through the United Water Company. The property is located at 31-39 Broadway St (Block 178, Lots 1-6) and is owned by Riverview Associates, LLC. The site is currently vacant and is surrounded by a mix of residential and/or retail and commercial uses. The site contains a total of 0.27 acres and is consistent with N.J.A.C. 5:97-3.13.

The affordable units must meet the requirements of the Uniform Housing Affordability Controls (N.J.A.C. 5:80-1 et seq.) with regard to controls on affordability, affirmative marketing, pricing, low/moderate split and bedroom distribution. Prior to marketing the affordable unit, the Borough must submit the required documents pursuant to N.J.A.C. 5:97-6.4(k). The Borough has indicated that Steven J. Weinberg of Community Action Services will be designated as the administrative agent for this development. **[One family rental unit and one rental bonus]**

Post-1986 Credits

Project/Development Name	Year Built or Approved	Type of Affordable Unit	Units/Bedrooms	Bonus Type	Bonuses	Total Units/Bedrooms + Bonuses
Sunrise Assisted Living Residences	2002	Age-restricted rental	9	-	-	9
Cresskill Plaza Inclusionary PUD	2007	Family rental	6	Rental	6	12
Wolfer Mixed Use Inclusionary Devt	2008	Family rental	1	Rental	1	2
North Jersey Community Bank Inclusionary Devt	2009	Family rental	2	Rental	2	4
Riverview Associates Mixed Use Inclusionary Devt	2009	Family rental	1	Rental	1	2
TOTALS			19		10	29

Proposed Affordable Housing Mechanisms

Cresskill proposes to address its remaining growth share obligation through the following mechanisms:

Accessory Apartment Program

Cresskill will utilize an accessory apartment program to address six units of its projected growth share obligation. Cresskill proposes to establish an accessory apartment program that will create at least six accessory apartments by the end of the third round certification period or 2018. The Borough proposes to subsidize the accessory apartment program at the minimum \$20,000 for moderate income units and \$25,000 for low-income units permitted pursuant to N.J.A.C. 5:97-6.8. The Borough proposes to create five moderate- and one low-income accessory apartments and has allocated a total of \$125,000 to the program. To comply with the low/moderate split, the Borough proposes two low-income units through its TR zone innovative approach program. The Borough's Housing Element and Fair Share Plan indicates that the Borough's housing stock and land use patterns lend themselves to the provision of accessory apartments due to a floor area ratio (FAR) provision in its R-10, R-15 and R-40 zoning districts which provides enough additional building

space to accommodate accessory units. The Borough has submitted a draft accessory apartment ordinance that is consistent with N.J.A.C. 5:97-6.8. Cresskill has submitted a draft resolution of intent to appropriate funds or to bond in the event of any shortfall in funding for this program. In addition, the Borough has indicated that they will designate Steven Weinberg of Community Action Services, Inc. as the administrative agent for the program and has submitted a draft of the contract and resolution designating him. Cresskill has also submitted a draft operating manual that includes a description of the program procedures and administration in accordance with UHAC. Cresskill must adopt the resolution of intent to bond no later than 45 days from receipt of substantive certification.

[Six family rental units]

Innovative Approach

Cresskill will rely on an innovative approach program pursuant to N.J.A.C. 5:97-6.15 to address 15 units of its projected growth share obligation on two properties located at 130 and 160 Broadway Ave (Block 88, Lots 2 & 3). 160 Broadway Ave is approximately 1.84 acres in size and 130 Broadway Ave is approximately 3.47 acres. The two lots are adjacent to each other and together total approximately 5.31 acres. The subject tract is part of the Townhouse Residence Zone (TR), which presently permits single family townhouses at eight dwellings per acre along with uses permitted in the P & L District. The tract is located in PA-1 with sewer availability through the Bergen County Utilities Authority and water availability through the United Water Company. There are no environmental constraints on the tract. The Borough indicates that both lots have existing office and warehouse related businesses that are marginal given the market conditions of the region. Cresskill submitted a draft ordinance that includes a number of incentives to encourage the redevelopment of the tract with inclusionary development. The incentives include higher permissible densities, reduced or waived application and building department fees, height increases, and financial contributions from the Borough. The Borough's draft ordinance amends the TR Zoning District to incorporate the incentives noted above. In particular, a provision is added that permits mixed use commercial on the first floor and residential uses on the second floor at a minimum density of 14 units per acre and a maximum density of 15 units per acre with a 20 percent affordable housing set-aside on the above mentioned tract only. The Borough anticipates a total yield of at least 60 market rate and 15 affordable units on the tract. Based on the anticipated yield of 15 affordable units, the ordinance requires that at least five units must be set aside for households

making 30 percent or less of the regional median income. The Borough has allocated a total of \$110,000 or approximately \$7,333 per unit in its spending plan to this innovative program. To incentivize the five very low-income units, the Borough has allocated in its spending plan an additional \$80,321 or \$16,664 per unit from the affordability assistance funds. Although the Borough is required to provide eight low income units and seven moderate income units, the Borough proposes to provide 10-low income units through this program to provide the low income units required in accordance with N.J.A.C. 5:97-6.8(c)3. Furthermore, the Borough permits shared parking to accommodate the increased density.

The affordable units proposed must meet the requirements of the Uniform Housing Affordability Controls (N.J.A.C. 5:80-1 et seq.) with regard to controls on affordability, affirmative marketing, pricing, low/moderate split and bedroom distribution. Prior to marketing the affordable units, Cresskill must submit the items required pursuant to N.J.A.C. 5: 97-6.4(k). The Borough has indicated that Steven J. Weinberg of Community Action Services will be designated as the administrative agent for this development. **[15 family rental units]**

Proposed Growth Share Affordable Housing Mechanisms

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	No. Units/Bedrooms	Bonus Type	No. Bonuses	Total Eligible Units/Bedrooms + Bonuses
Accessory Apartment Program	Family rental	6	-	-	6
Innovative Approach	Family rental	15	-	-	15
TOTALS		21		-	21

Growth Share Parameters

Cresskill has satisfied the applicable Growth Share parameters as follows:

Growth Share Rental Obligation:⁷ 13 Units

Development/Project Name	Type of Affordable Unit	No. Units	No. Units Addressing Rental Obligation
Accessory Apartment Program	Family rental	6	5
Cresskill Plaza Inclusionary PUD	Family rental	6	0
Innovative Approach	Family rental	15	8
North Jersey Community Bank Mixed Use Inclusionary Development	Family rental	2	0
Riverview Associates Mixed Use Inclusionary Development	Family rental	1	0
Sunrise Assisted Living Residences	Age-restricted rental	9	0
Wolfer Mixed Use Inclusionary Development	Family rental	1	0
TOTAL		40	13

Growth Share Family Rental Requirement⁸ : 7 Units

Development/Project Name	Type of Affordable Unit	No. Units	No. Bonuses*
Accessory Apartment Program	Family rental	6	0
Cresskill Plaza Inclusionary PUD	Family rental	6	6
Innovative Approach	Family rental	15	0
North Jersey Community Bank Mixed Use Inclusionary Devt.	Family rental	2	2

⁷ Projected Growth Share Rental Obligation: $.25(\text{Projected Growth Share})$ or $.25(50) = 12.5$ units N.J.A.C. 5:97-3.10(b)3

⁸ Projected Growth Share Family Rental Requirement: $.5(\text{Projected Growth Share Rental Requirement})$ or $.5(13) = 6.5$ units N.J.A.C. 5:97-3.4(b)

Development/Project Name	Type of Affordable Unit	No. Units	No. Bonuses*
Riverview Associates Mixed Use Inclusionary Development	Family rental	1	1
Wolfer Mixed Use Inclusionary Development	Family rental	1	1
TOTAL		31	10

*Subject to bonus maximum pursuant to N.J.A.C. 5:97-3.20

Growth Share Minimum Family Requirement⁹ : 20 Units

Development/Project Name	Type of Affordable Unit	No. Units
Accessory Apartment Program	Family rental	6
Cresskill Plaza Inclusionary PUD	Family rental	6
Innovative Approach	Family rental	15
North Jersey Community Bank Mixed Use Inclusionary Devt.	Family rental	2
Riverview Associates Mixed Use Inclusionary Development	Family rental	1
Wolfer Mixed Use Inclusionary Development	Family rental	1
TOTAL		31

⁹ Projected Growth Share Family Requirement: .5(Units Addressing the Growth Share Obligation) or .5(50-10)= 20 units
N.J.A.C. 5:97-3.9

Very Low Income Minimum Requirement¹⁰ : 5 Units

Development/Project Name	Type of Affordable Unit	No. Units
Innovative Approach	Family rental	5
TOTAL		5

Age-Restricted Maximum¹¹ : 12 Units

Development/Project Name	Type of Affordable Unit	No. Units
Sunrise Assisted Living Facility	Rental	9
TOTAL		9

Bonus Maximum¹²: 12 Bonuses

Development/Project Name	Type of Bonus	No. Bonuses
Cresskill Plaza Inclusionary PUD	Rental	6
North Jersey Community Bank Mixed Use Inclusionary Devt.	Rental	2
Riverview Associates Mixed Use Inclusionary Development	Rental	1
Wolfer Mixed Use Inclusionary Development	Rental	1
TOTAL		10

¹⁰ Growth Share Very Low Income Requirement: $.13(\text{Growth Share Obligation less bonuses addressing growth share})$ or $.13(50-10)= 5.2$ or 5 units pursuant to P.L.2008, c.46

¹¹ Projected Growth Share Age Restricted Maximum: $.25(\text{Projected Growth Share})$ or $.25(50)= 12.5$ or 12 units N.J.A.C. 5:97-3.10(c)2

¹² Projected Bonus Maximum: $.25(\text{Projected Growth Share})$ or $.25(50)= 12.5$ or 12 units N.J.A.C. 5:97-3.20

Actual Growth Share Obligation

The actual growth share obligation will be based on permanent certificates of occupancy issued within the municipality for market-rate residential units and newly constructed or expanded non-residential developments in accordance with Appendix D of N.J.A.C. 5:97. At plan evaluation review pursuant to N.J.A.C. 5:96-10, COAH will compare the actual growth share obligation with the actual number of affordable units constructed.

The New Jersey Department of Community Affairs (NJ DCA) *Construction Reporter* indicates that between January 1, 2004 and September 30, 2008, Cresskill issued certificates of occupancy for 146 housing units and for the non-residential square footage equivalent of 435 jobs, yielding an actual growth share obligation of 56 affordable units.¹³

D. Summary of Plan to Address Fair Share Obligation

REHABILITATION SHARE SUMMARY

Rehabilitation Share: 26 Units

Program Name	Credits	Proposed
Bergen County Home Improvement Program	0	26
TOTAL	26	

PRIOR ROUND SUMMARY

Prior Round Obligation: 70 Units

	Name of Mechanism	No. Units/Bedrooms	Bonus Type	No. Bonuses	Total Units/Bedrooms + Bonuses
Post-1986 Credits	Daibes Park/ Hoke Site Redevelopment Area	18	Rental	18	36
	Bayonne & Weehawken RCAs	34	N/A	0	34

¹³ The number of residential COs (146) is initially divided by 5 to yield 29.2 units and the number of jobs (435) is initially divided by 16 to yield 27.2 units. Cresskill's total actual growth share is therefore 56.4 units (29.2 + 27.2). **Note:** This number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.5; therefore, the actual growth share may vary.

	Name of Mechanism	No. Units/Bedrooms	Bonus Type	No. Bonuses	Total Units/Bedrooms + Bonuses
Subtotal		52		18	70
TOTAL					70

GROWTH SHARE SUMMARY
Projected Growth Share Obligation: 50 Units

	Name of Mechanism	No. Units/Bedrooms	Bonus Type	No. Bonuses	Total Eligible Units/Bedrooms + Bonuses
Post-1986 Credits	Cresskill Plaza Inclusionary PUD	6	Rental	6	12
	North Jersey Community Bank Mixed Use Inclusionary Devt.	2	Rental	2	4
	Riverview Associates Mixed Use Inclusionary Development	1	Rental	1	2
	Sunrise Assisted Living Residences	9	-	-	9
	Wolfer Mixed Use Inclusionary Devt.	1	Rental	1	2
Subtotal		19		10	29
Proposed Mechanisms	Accessory Apartment Program	6	-	-	6
	Innovative Approach	15	-	-	15
Subtotal		21		-	21
TOTAL					50

III. FAIR SHARE DOCUMENT REVIEW

A. Development Fee Ordinance

Cresskill's certified plan included a development fee ordinance that was approved by COAH on July 9, 1997, and adopted by the Borough on November 1, 2000. COAH granted Cresskill approval of an amendment to its development fee ordinance on April 12, 2001. Cresskill submitted a draft amended development fee ordinance for COAH's review and approval with its third round petition. The amended development fee ordinance was approved on September 24, 2009.

B. Third Round Spending Plan

Cresskill's prior round spending plan was approved by COAH on April 1, 2004. A revised third round spending plan was submitted by Cresskill with the Borough's third round petition for COAH's review and approval. The spending plan was approved on February 8, 2010. Cresskill submitted a revised spending plan on August 18, 2010. The Amendment to the COAH approved spending plan will be reviewed in a separate report.

C. Affordable Housing Ordinance/Affordable Housing Administration

Cresskill has an adopted affordable housing ordinance for its prior round obligation. Cresskill has submitted a revised draft affordable housing ordinance that comports with the requirements of the Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1 et seq., which was amended on December 20, 2004. The draft proposed ordinance has also been amended to comply with the barrier free subcode of the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.) and the accessibility requirements of N.J.S.A. 52:27D-123.15. The draft ordinance must be adopted within 45 days of COAH's grant of substantive certification and submitted to COAH immediately upon adoption.

An ordinance establishing the position of a municipal housing liaison and a resolution appointing a municipal housing liaison were adopted by the Borough on June 6, 2007.

Cresskill is responsible for the continued re-sale and re-rental of existing affordable units and the initial sale and rental of newly constructed affordable units within the Borough and must identify an experienced administrative entity for that purpose by contract, agreement or letter. Cresskill has designated Mr. Steven Weinberg as its administrative entity for the rehabilitation program. All other

affordable units will also be administered by Mr. Weinberg. The Borough has submitted a copy of a draft contract and resolution designating Mr. Weinberg as the administrative agent for all affordable units within the Borough. In addition, Cresskill has submitted a written operating manual for administering affordable units within the Borough, pursuant to N.J.A.C. 5:80-26.14(b). Cresskill must execute the draft administrative agent contract within 45 days of substantive certification.

D. Affirmative Marketing Plan

Cresskill has submitted an affirmative marketing plan. The plan must comport with the requirements of the UHAC and ensure the units in the Borough's 1987-2018 Fair Share Plan and all future affordable housing units will be affirmatively marketed to the region upon initial sale/rental and re-sale/re-rental. Once approved by COAH, the affirmative marketing plan must be adopted by resolution by the Borough within 45 days of COAH's grant of substantive certification and submitted to COAH.

IV. MONITORING

Cresskill must comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting the municipality's actual growth pursuant to N.J.A.C. 5:97-2.5. As indicated above, credits for built units will be validated and verified by COAH staff during monitoring prior to the first biennial plan evaluation. It should be noted that credits for affordable housing programs and/or affordable units must be in compliance with N.J.A.C. 5:97-4. If the units are determined not to be eligible for credit, COAH will notify Cresskill in writing and the Borough may be directed to amend its certified plan to address the shortfall.

Pursuant to N.J.A.C. 5:96-10.1, COAH will conduct biennial plan evaluations upon substantive certification of Cresskill's Housing Element and Fair Share Plan. The purpose of the plan evaluation is to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing. If upon any biennial review the difference between the number of affordable units constructed or provided in Cresskill and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a prorated production shortage of 10

percent or greater, Cresskill is not adhering to its implementation schedule pursuant to N.J.A.C. 5:97- 3.2(a)4, or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the municipality to amend its plan to address the shortfall.

COAH staff notes that Cresskill's actual growth share obligation to-date of 56 units exceeds the Borough's projected growth share obligation of 50 units. This measure of actual growth does not include any reductions that may be available to Cresskill through exclusions pursuant to N.J.A.C. 5:97-2.4(a)1. Cresskill's Fair Share Plan provides for 40 affordable units and 11 rental bonuses to meet its projected growth share obligation of 50 units. Pursuant to N.J.A.C. 5:97-2.5, Cresskill is required to provide affordable housing in direct proportion to the growth share obligation generated by the actual growth, which shall be monitored at its biennial review. At that time, Cresskill shall demonstrate that it has provided sufficient affordable units to keep pace with its actual growth.

V. SUMMARY OF COMMENTS

Fair Share Housing Center

Fair Share Housing Center (FSHC) submitted comments to Cresskill's Housing Element and Fair Share Plan on May 18, 2009. Fair Share Housing Center raises two concerns with Cresskill's Housing Element and Fair Share Plan. First, FSHC states that Cresskill claims eligibility for the 20 percent cap pursuant to N.J.A.C. 5:97-5.5 and it is not eligible. Second, FSHC requests that COAH ensures that the Borough addresses its very low-income housing requirement, including addressing at least half of the requirement with family units. FSHC asserts that Cresskill is not currently meeting its very low-income requirement.

COAH Response

COAH granted second round substantive certification of Cresskill's Housing Element and Fair Share Plan on February 2, 2000. Cresskill's second round substantive certification did not include any adjustments, including a 20 percent cap. Cresskill's plan to address its prior round obligation is consistent with the second round substantive certification. A plan to address Cresskill's very low-income requirement was part of the additional documents requested by COAH

in the November 24, 2009 RRAI. In its response to the RRAI, Cresskill is proposing to address its very low income requirement through the Innovative Approach.

VI. RECOMMENDATION

COAH staff recommends that Cresskill be granted third round substantive certification. Cresskill must adopt all necessary implementing ordinances within 45 days of the grant of substantive certification and submit certified copies of the adopted ordinances to COAH within seven days of the adoption. Accordingly, the following documents must be adopted and/or executed within 45 days of the date of substantive certification:

- A resolution of intent to bond in the event of a shortfall of funds;
- A contract and resolution designating an administrative entity for all affordable units;
- The affordable housing ordinance;
- The accessory apartment ordinance;
- The affirmative marketing plan; and
- The spending plan amendment.

Appendix A

Borough responses to COAH's RRAI dated November 24, 2009



Hakim Associates

LANDSCAPE ARCHITECTURE
PROFESSIONAL PLANNING
NATURAL RESOURCE CONSULTING

Michael G. Hakim, CLA, RLA, PP, ASLA, *President*

68 DEAN STREET
HARRINGTON PARK, NJ 07640

July 15, 2010

Via email and hard copy

State of New Jersey
Department of Community Affairs
Council On Affordable Housing
101 South Broad Street
Trenton, NJ 08625
Attn: Sean Thompson, Acting Executive Director

Re: Accessory Apartments

Dear Mr. Thompson:

Pursuant to the recent telephone conversations between you, me, and Ms. Joanne Wiggins and Mr. Ramond Joseph of COAH, please accept this letter on behalf of the Borough of Cresskill regarding its accessory apartment program.

Since COAH has indicated that the two bonus credits claimed by the Borough for additional rental units within the TR Townhouse Residence Zone cannot be granted at this time, Cresskill has determined that it is in their best interest to increase their Accessory Apartment program from three units to five to make up what is expected to be an interim shortfall. This change will be reflected in the revised Fair Share Plan soon to be submitted with the Borough's amended petition for substantive certification.

Please advise us that you have everything you require to recommend certification for the Borough of Cresskill.

Very truly yours,

Michael G. Hakim, PP, LLA, ASLA
President

Cc: Ramond Joseph, COAH; Hon. Benedict Romeo, Mayor; Vincent Salvatore, Borough Attorney;
Barbara Nasuto, Borough Clerk



Hakim Associates

Michael G. Hakim, CLA, RLA, PP, ASLA, *President*

LANDSCAPE ARCHITECTURE
PROFESSIONAL PLANNING
NATURAL RESOURCE CONSULTING

68 DEAN STREET
HARRINGTON PARK, NJ 07640

June 29, 2010

Via email and hard copy

State of New Jersey
Department of Community Affairs
Council On Affordable Housing
101 South Broad Street
Trenton, NJ 08625

Attn: Sean Thompson, Acting Executive Director

Dear Mr. Thompson:

Pursuant to the telephone discussion this past Friday June 25, 2010 that took place between you, Ramond Joseph, myself and one other COAH representative, please accept this synopsis of the recent steps taken by Cresskill Borough to promote, encourage and enable affordable housing within the Borough. Specific focus is on the TR Townhouse Residence District; but the Borough has also been active since the beginning of COAH's Round 3 in encouraging *and achieving* the production of affordable housing in other districts as well. It is noteworthy that virtually no undeveloped and unencumbered land has existed within Cresskill for many years, or for that matter in any of the surrounding communities either, therefore redevelopment is the Borough's only option. In Round 2 Cresskill created the PURD District that redeveloped old industrial property into inclusionary rental apartments and special needs housing, along with market rate age-restricted housing.

1. All Districts that Permit Affordable Housing as a Component:

The entire Borough of Cresskill is located in Planning Area 1 as identified by the NJSDRP. No areas within Cresskill have any special state planning designation such as a location within a transit oriented village or other such area. Therefore, Cresskill has offered affordable housing incentives as required by COAH. Those incentives are similar for all levels of affordable housing. They include higher permissible densities through the mechanism of smaller permissible unit sizes than are otherwise permitted, and reduced or waived application and building department fees that will be subsidized by the Borough's Affordable Housing Trust Fund. In the TR inclusionary housing location, and for the accessory apartment program, they also include financial contributions by the Borough.

2. TR Townhouse Residence Zone:

The Borough has submitted several proposed revisions to the zoning of this District with the intent of promoting affordable housing. Our review of the regulations contained in N.J.A.C. 5:97-3.13 reveals nothing that would cause COAH not to approve the two sites on Broadway as affordable housing receiving sites. They are both potentially available, approvable (draft ordinance submitted to COAH), developable and suitable, according to COAH's criteria as contained in that section. As to these criteria, as we have previously indicated:

- These sites contain marginal laboratory/research/warehouse (i.e. light industrial) businesses that are not expected to be sustained in these locations in the long term. This is because industrial uses are rapidly becoming obsolete in northeastern New Jersey on the Manhattan outskirts since property values render them cost ineffective and far from a highest and best use. Owners of these properties have found that redevelopment to higher value land uses is far more profitable; and as a result even successful light industrial businesses have been relocating to less expensive sites.
- This gentrifying phenomenon is not uncommon in this region, and it has led to the redevelopment of similar sites into residential, retail and mixed use complexes. Sometimes that takes the form of complete demolition and redevelopment. Other times it has led to adaptive reuse of still substantial structures which is what is expected in this case.
- The two buildings in question support one story operations that can easily support second and even third story residences in the form of apartments.
- There are no environmental constraints on either of these two sites.
- Adequate utility services are available to service both sites.
- Residential uses exist across the street.
- Zoning restrictions have been amended in draft form to enable their required density and higher parking requirements, and to eliminate any requirement that might be considered cost-generative.
- The zoning identifies inclusionary housing as a permitted use, thereby removing it from the overlay zone category.

The other 5:97-6.4 COAH criteria have already been met: (a) financial incentives have been proposed (see Fair Share Plan; and see the approved Spending Plan for a financial contribution of \$170,000 over 10 years); (b) the site suitability criteria set forth in N.J.A.C. 5:97-3.13 have been met as described above; and (c) the revised zoning will provide for the presumptive densities and set-asides prescribed by COAH for inclusionary units. As to (c) above, in order to provide for 15 affordable rental units, a total of 75 dwelling units (60 market rate plus a 25% set-aside) would be permitted on the 5.31 developable acres. This calculates to a development density of approximately 14 units per acre. This density would exceed COAH's presumptive minimum of 12 units per acre and therefore is approvable. Cresskill proposes to adopt the revised ordinance to comply with COAH's restrictions. And as you know, Cresskill has been attempting to obtain non-binding letters of intent from the two property owners.

3. PUD Planned Unit Development Zone:

After an unsuccessful attempt to designate a few contiguous properties as in need of redevelopment, Cresskill attracted a developer to purchase and redevelopment them as one unified complex without the State designation. Cresskill created this new zone from a former commercial site into one that permits retail on the first floor, and rental housing with an affordable set-aside on the second and third floors. The developer went through the land use and environmental review processes and now has an approved development plan. The only factor delaying the construction of this development that will produce six affordable (three low income and three moderate income) dwelling units is Bergen County's plan for roadway improvements in front of the site. Construction is expected to commence later this year.

4. C Commercial Zone:

The Borough has enacted revisions to the zoning of this District and initiated a Borough-funded project, both with the intent of promoting affordable housing. Results have already been seen:

- The Borough added residential uses to office uses as those that are conditionally permitted on the upper floors within the commercial zone. The primary condition is that the Borough has a need to add to its affordable housing stock, which condition is triggered (among other times) when the Borough is seeking affordable housing certification.
- On its own, the Borough sought and obtained cross easements over the back yards of all of the properties along the north side of Union Avenue, Cresskill's primary commercial street. Individually, these yards are too narrow to support any reasonable parking configuration. As a result, the prevailing development condition is haphazard at best, with most unkempt, individual trash dumpsters, poor circulation patterns, overgrown weeds, and disorganized maintenance. Together, however, we have planned a community parking lot available to all, with common servicing and maintenance. This project is publicly funded and will double the quantity of downtown parking. The area will be attractively landscaped, and the additional parking enables the new upper floor housing to be implemented. This project is in the contract document phase.
- Two successes have already resulted in the production of affordable housing: the Wolfer mixed use development that will produce four market rate and one affordable apartment; and the North Jersey Community Bank mixed use development that will produce five market rate and two affordable apartments. Both projects have been approved and are ready to commence.

5. P & L Professional Office and Research, Design and Development Laboratories Zone:

While no revisions have been made to these zoning provisions, the Borough supported the approval of a 'd' variance that was granted for a redevelopment site within this zone. The development plan for a site at the corner of Milton Street and Broadway was approved for a two story building with an office space, four market rate apartments and one affordable apartment. This project's approvals are in place so that construction can begin at any time.

With the above serving as Cresskill's certified recent history regarding affordable housing, we ask once again that the N.J. Council On Affordable Housing grant the Borough Third Round Substantive Certification.

Very truly yours,



Michael G. Hakim, PP, LLA, ASLA
President

Cc: Ramond Joseph, COAH; Hon. Benedict Romeo, Mayor; Vincent Salvatore, Borough Attorney;
Barbara Nasuto, Borough Clerk